

Encourage to Arrest Project Advisory Council
April 2, 2004 Meeting Notes
Whitefish, MT

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The Advisory Council's Five Goals

1. Address the inadequate reporting of Orders of Protection and firearm disqualifications into CJIN/NCIC.
2. Address the non-uniformity of the Full Faith and Credit training within the state.
3. Grow the use of the Protection Order cover sheet.
4. Bring about the active support and commitment from the major participants.
5. Initiate and support key legislation.

Highlights of the November meeting of the group:

What stands out as significant to you?

- ATF training by John.
- OOP cover sheet finalized, now on AG's website for downloading and its distribution to many courts, clerks, etc. The official version of the document is in place.
- We set priorities for our upcoming conference, and finalized its purpose.

Review of the US Attorney's Conference we just attended

- **Matt:** Incredible accessibility to Federal people exists. I came away with the feeling these are our partners, and they are very interested in our work. If we have questions or uncertainties, we can go to them and I'm grateful for that.
- **Eleanor:** Regarding the seizure of weapons by state or county/city police on behalf of ATF, it shows us our training is working. These problems do arise and are resolved. Federal stalking law doesn't cover Indian country and that's a huge gap. Tribes thought it was in place, but the mail and email can't be processed at the Federal level.
- **Janice:** Everything at the conference was valuable. For people to be convicted and for there to be justice for the victim, requires so much evidence. We need a lot more work in this area. We don't get any justice from the third offense when it becomes a federal case. There is a lot of injustice.

- **Dan:** There is a big gap needing our attention in Indian Country. In many jurisdictions people are pleading to PFMA's 2nd offense when actually it is a third offense. Frequently in DUI cases such pleas are made, and I have heard the same thing occurs for PFMA convictions.
- Several things were really encouraging, and there was good networking for future contact. Most important was Jamie from Hamilton about what the community can do. She gave us lots of ideas we can use.
- **Laura:** From the perspective of Probation and Parole, complacency is a concern. We got the heads up on what to watch out for, and the importance of continuing to go back. There were good ideas on who to get involved, the list of who touches the case. I'll take these back to the Billings Area Family Violence Task Force.
- **Holly:** We think we're the only rural state with these issues. It's good to know we are in much better shape than some states with more money and training opportunities. I really appreciate the ideas about Project Safe Homes and Project Safe Neighborhoods.
- **Paulette:** I didn't originally get the connection between DV and firearms. We need as many people as possible to receive information and education on the federal firearms laws. A new addition to my marching orders will be to prosecute DV and use our different prohibitions. We have 9 types of prohibited persons as well as illegal weapons, so we're not limited to only DV violations. Please keep the US Attorney's Office in mind and call me. Laminated statutes are available for advocates and officers. We also have a card listing sample questions for drug users for officers.
- **Paulette:** I am assuming we will apply for the grant; we always do. We have a media outreach effort underway about Project Safe Neighborhoods. There is designated money for outreach; some has to go to juvenile work. "Catch and No Release" cards brief officers and probation and parole people. They review the most common violations officers will come across: sawed off shotguns, rifles and machine guns.
- **Ken:** The types of people we're dealing with don't have permits for these kinds of firearms. These guns are generally carried on drug deals and hold ups. You don't have to aim or be very accurate to hit your target. Semi-automatics are not illegal.
- **Joan:** Enjoyed the speakers from New Hampshire and Vermont. Squirrel tags? Their media campaigns interested me. It is important to get the message out that guns can be taken away. Many Montanans do not understand that pleading down a PFMA to misdemeanor assault still equates to losing access to their guns.
- **Donetta:** Greater awareness and appreciation of all the tools we have at our disposal. Something that has been very frustrating to me is the complexity of the laws required in Indian Country. The third time offense is a felony; it's hard to get justice. It's frustrating and as an advocate we see these guys falling through the cracks and going on to batter others. We need to continue collaborating and learning. It's not as hopeless if we work hand-in-hand and continue training in the field. I feel discouraged and distressed by perpetrators in Indian Country who may never be charged, and the necessary higher level of proof for felonies.
- I was very interested in the West Virginia and Vermont media campaigns. We spend \$20,000 annually on media buys and we're examining what we're doing with focus groups on who to reach and how. I will follow-up and look for ways to partner with Project Safe Neighborhoods. In the community coalitions, if we can bring in information from this conference, it will be significant.

– **Marilyn:** I'm a records keeper. We have been attending the US Attorneys Conference on Combating Violence in Indian Country, and yet among the Domestic Violence Silent Witnesses that were displayed, there was not one Silhouette for an Indian woman. I asked why there weren't American Indian women represented, and was told we don't have any numbers. Let's gather this information. (*Donetta will gather it from the media clipping service the Coalition subscribes to. Matt and Joan will communicate with the Silent Witness program about this gap.*) Another thing that struck me was that there was no mention in the media of what was going on here. Full Faith and Credit isn't understood. Why aren't serial numbers entered? Another concern I have is the tribal codes have more civil teeth in their OOP than we do. Native American civil law is stronger than ours. Some pressure can be put on the respondent. We have a lot of gaps we can fill if we get the word out, and people might be more willing to talk to victim advocates or probation officer.

- **Janice:** Domestic violence is escalating on the Reservations. Matt: Another missed opportunity is the Fatality Review Team's work.

– **Ken:** It's a good idea for the media people to attend conferences like this one. I met with the *Daily Interlake* reporter. She said she would have loved to come to this conference if she had known about it.

– **Holly:** There is safety concerns about there being much pre-publicity about conferences like this one.

– **Ken:** One thing that could be explored is to educate the legislature about providing legal protection to address our lack of protection for local law enforcement. Frustration exists with law enforcement being concerned about what can happen in civil court.

– **Pam:** It would send a powerful message if we initiated it more legislation to provide officer immunity, too!

– **Eleanor:** It is shocking; other states have tremendous officer immunity. Officers don't need any more anxiety. The Federal agencies enjoy a lot more protection and broader immunity, but it doesn't apply to the state level.

– **Nancy:** Dusty Deschamps talked about the inability to access information; the Tribes aren't covered. I'm interested in a national repository. 28% of violators are from another entity. They only automated their own local records in the last year.

-**Eleanor:** An exclusive Tribal repository is a great idea. Automation might be the challenge. Are any Tribes submitting Protection Orders into CJIN?

-**Nancy:** The following five tribes have entered Protection Order records into NCIC: Flathead, Crow, Lane Deer, Fort Peck and Rocky Boy. Three tribes currently have CJIN access: Flathead, Crow and Blackfeet. Lane Deer had access but were disconnected- we are working with them on meeting administrative conditions so that they may reconnect. Some tribal agencies that do not have CJIN access are working with law enforcement partner agencies to get their Protection Orders entered into NCIC (Fort Peck and Rocky Boy). Having CJIN access does not guarantee that an agency will enter their Protection Order records into NCIC (Blackfeet).

Eleanor training progress report

- Covered the Eastern part of the state, Ft. Peck, Crow, Ft. Belknap, Rocky Boy. Attended the Police Chief Annual and Havre regional meetings.
- The reception to the trainings is very, very positive. Eleanor is well received. Officers know they need help and are great to work with.
- The manual edit is taking place. Please communicate any changes you recommend to her. Our conference plans
- The agreed upon purpose of our conference is to provide education in order reduce the number of domestic violence victims through instituting uniform application of the laws, standards, and protocols regarding firearms.
- What we said we are hoping to accomplish:
 - + Everyone using Order of Protection and Cover Sheet correctly;
 - + Increased compliance with CJIN and NCIC;
 - + Increased enforcement of OOP statewide;
 - + Reduced error rate in CJIN and NCIC;
 - + Uniform application of laws across the state on DV and OOP;
 - + New contacts, networks, and resources to call upon; and
 - + Everyone understanding the expectations of the laws – local, state, Tribal and Federal.

UPDATE ON COLJ / FIREARMS CONFERENCE

- **Beth: There** is a COLJ clerks' conference on June 15 and 16 in Butte, focusing on DV. There will be OOP training, an overview by Eleanor, a panel discussion on public safety, and Nancy reporting on CJIN. Fifty clerks can attend, and will be subsidized; others can attend too, especially if there is additional funding. There are about 225 clerks.
- There is a Limited Jurisdiction Court Judges event in April. Frederick Rogers from Colorado will present for 3 hours. We've also applied for money to bring in a course called Enhancing Judicial Skills in DV Cases. Judges who have attended this conference previously gave it very positive reviews. We would bring them in the Fall of 2004. It would last from Tuesday morning through Thursday morning.

Joan: We (FFC Group) could dovetail with the COLJ Conference on Friday or Monday, for a social or a sponsorship opportunity. District, Tribal and Federal judges may also be able to attend.

- Beth: By late May we'll know if funding will be available to do this. The instructors are 10-15 sitting judges. Maybe we could provide additional funding and that would accommodate more of the judges we most want to attend. 114 people can attend.

Matt: If it is only about money, we want to be called upon

Beth: If we get the funding, I'm sure District judges can be invited and the Commission will approve this.

Decision: We would be enlarging the pool of the Fall event versus creating our own event, and potentially reinventing the wheel of something already being offered. We'll keep the group apprized of funding for this.

Questions: Could we provide a session at the conference by Eleanor on our list of items – the specifics on Full Faith and Credit, OOP cover sheet, NCIC entry policy for OOP, etc? Beth will ask the Commission. A handout at the Conference is do-able. We can also insert something in the judge's DV manual. Can we insert something in the bench book the next time it is revised?

Legislative possibilities, with Pam Bucy

Brainstorm: Broaden Full Faith and Credit language to include all criminal orders, whether civil or criminal. Also, there is hesitation or inaction by local officers from taking firearms from homes in DV situations. To provide immunity from law suits, particularly about firearms, when acting in good faith, would be helpful.

Pam: Officers are afforded protection already under the law. At county attorneys and law enforcement professional associations meetings we could provide training to include the language.

Paulette: What they need is immunity from a lawsuit if they are operating in good faith and enforcing state or Federal law. This doesn't have to be specific about firearms.

Pam: I will review the statutes but I don't think this is why officers aren't acting. It's broader than officer immunity.

Paulette: Bill just wants them to be able to seize the firearm.

Pam: If a state agency is going to be the lead on legislation, April 16 is the deadline for pre-submitting. A few things on our list are also on the Attorney General's list. They will be pre-submitted to the Governor's office, and the process will start. 45-50 bills will be introduced as a clump. If we don't do that, we have to find a legislator to sponsor a bill for us in September. Several of our suggestions don't call for legislation, and can be addressed in other ways.

Legislation we are asking Pam to pursue through the AG's office:

1. Mandatory reporting for misdemeanors. Address the disconnect between OOP and concealed weapons permit for NICs check.
2. Address "standing" and "act of omission" gaps.
3. Regarding dissolved restraining orders: Who is responsible at the Court level for communicating updates to CJIN?
4. Simplify with "shall" arrest if there is an injury.

Ones about which we had questions or a different approach:

1. Make the mandatory reporting to NCIC by counties enforceable. Meet with Nancy.
2. FFC law should apply to all foreign, civil, and criminal OOP.

Legislative ideas we chose not to proceed with at this time, or via this route:

1. Encourage state courts to enforce Tribal civil orders.
2. Statutory mandate to enforce OOP.
3. OOP: Address the leeway judges have. Currently the burden is on the respondent if the order is to continue past the expiration date. It puts a great burden on the respondent to request a hearing.

Continuation Grant Update, by Matt

– Our grant ends August 31, 2004. We requested a two-year extension, which will commence in September 2004 if all goes well. Even if we don't receive that grant, we will have enough money to continue through the end of this calendar year with our current funding.

– The objectives outlined in the grant application are to:

1. Continue with Eleanor's trainings;
2. Work with Tribal agencies regarding getting FFC into the Tribal code;
3. Technology – turn the universal coversheet into an electronic form in order to reduce errors;
4. Work with the National Association of State Courts to export our coversheet toward being a *regionally used* coversheet;
5. Allow the Advisory Council to meet twice a year; and
6. Allow the grant staff to be involved in other organizations with an official connection, like the Domestic Violence Fatality Review Team.

Indian Law Clinic, with May Linn Smith

– This is a three-year program at the University of Montana Law School. Between 3 and 10 students at any one time are working on various projects. We train Tribal Courts two to three times a year. We do research and Bench Memos for them. We do a lot of research on domestic issues, less on domestic violence unless the Flathead Office is unable to. We do a fair amount of code revision for Tribes on corporate, criminal, environmental and child welfare cases.

– There are going to be some changes at the Clinic. I don't see huge ones because it's been part of the law school since it was established 25 years ago.

– The Blackfeet Tribe is revising their DV code. Ft. Belknap revised theirs about three years ago. Ft. Peck has some DV code. Crow is working on theirs right now. The Clinic can assist with code and training. I recommend the Advisory Council connect with the Montana-Wyoming Tribal Judges Association; the president and contact person is Don Sellars, of the Blackfeet Tribe.

– The biggest need I see is Federal prosecution of DV, except on the Flathead Reservation. The feds won't prosecute and aren't comfortable doing civil contempt. It's a Federal matter. They review violation of OOP as a Federal matter. Eleanor and May Linn will meet and follow-up.

Face sheet update, with Nancy Bloom

– Good progress is occurring! The face sheet being distributed to judges and courts is helping.

– There is a slight increase in the number of Protection Orders entered into CJIN, evidenced in the six-month snapshot. All Task Force members should feel free to distribute the face sheet to judges.

– This is a great illustration of our work as a Task Force. Ravalli County is the poster child county with a very strong coalition pushing our agenda.

Meeting evaluation summary

1. What were the **most** productive or helpful or interesting segments of the meeting?

- Networking. Hearing overview of other's perspectives on the conference. Problem solving or at least discussing common issues of concern.
 - The overview of each person's debrief of the US Attorney Conference. Indian Law School information.
 - Legislative input from Pam B.
 - Speaking to Pam regarding legislative possibilities.
 - Legislation. Discussion of conference.
 - Reviewing past meeting. Seeing what has worked. Encouraging collaboration from all parties involved.
 - Conversation with Pam regarding legislation.
- Legislative information. Grant update. Getting info to clerks and judges training.

2. What were the **least** productive or helpful or interesting segments of the meeting?

- Federal versus. Indian Law Clinic .
- Trainings update.
- All topics discussed were of interest.

What a strong-willed group. We need to strive to set aside the "special interest" attitude to move forward. Are we really moving toward erasing Tribal/state/Federal restrictions for prosecution?

3. Did you **accomplish** what you wanted to accomplish? If so, what subjects or issues or topics were they? What did you get out of the meeting, if anything?

- Yes.
- We need to know more about Native American / Tribal culture. Maybe we need to meet on their turf.
- Sharing of information.
- Legislative concerns.

Good information for networking. Contacts. Got interested in legislature. Looks like several goals met!

4.a. What **changes and improvements** do you suggest for future meetings like this one?

- Suggest personal, off track issues and arguments wait for later. Some tough issues for all, but we spent some time beating it without being able to solve.
- Each session gets better with less digression.
- None at present.
- We must find a way to get Native American involvement. A more central meeting place may be helpful.

4.b. What would you like to have left **exactly as it was** at this meeting? Keep these characteristics:

- Good format. Hope we get to continue.
- I enjoy the informality.
- All.
- Great goals, sheets on wall, and agendas.

5. Any other suggestions, feedback or comments you would care to make?

- Great conference. Thank you!
- Four hour meeting is great!
- We need greater Tribal participation. Maybe we can accomplish this through personal contact from individuals on the committee.